

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

S.L., a minor, by and through her
parent and legal guardian D.L.,

Plaintiff,

-v-

Case No. 3:18 –CV-162 (Groh)

CITY HOSPITAL, INC., d/b/a,
BERKELEY MEDICAL CENTER,
A subsidiary of WEST VIRGINIA UNIVERSITY
HOSPITALS-EAST, INC., d/b/Resoa
WV UNIVERSITY HEALTHCARE;
BRANDT WILLIAMSON, M.D.;
MISTY HUNSADER, PA-C;
SMOKY MOUNTAIN EMERGENCY
SERVICES, INC.; and
HEALTH CARE ALLIANCE, INC.,

Defendants.

**PLAINTIFF’S REPLY TO DEFENDANTS’ MISTY HUNSADER, PA-C, BRANDT
WILLIAMSON, D.O., SMOKY MOUNTAIN EMERGENCY SERVICES, INC., AND
HEALTH CARE ALLIANCE, INC.’S RESPONSE TO
PLAINTIFF’S MOTION TO FILE FOURTH AMENDED COMPLAINT**

Comes now the plaintiff and states that the amendments proposed in her Fourth Amended Complaint were not intended to resurrect the claims pursuant to Title III of the Americans with Disabilities Act (“ADA”) against Misty Hunsader, PA-C, Brandt Williamson, D.O., Smoky Mountain Emergency Services, Inc., and Health Care Alliance, Inc. that were previously dismissed by this Court. The purpose of the amendments was to plead a factual basis, consistent with the facts and inferences known to plaintiff and her counsel, that supports a decision that plaintiff has standing to pursue her ADA Title III claim against City Hospital, Inc., d/b/a, Berkeley Medical Center (“BMC”). Plaintiff’s Motion to File Fourth Amended Complaint expressly states that the purpose of the amendments is to support plaintiff’s “contention that there is standing for S.L. to pursue her ADA

Title III claim against City Hospital, Inc. a/k/a Beckley Medical Center (‘BMC’).” (Doc 173, p. 1). Likewise, Paragraph 10 of the Motion to Amend uniquely references her ADA Title III claim against BMC, not the claims against BMC’s co-defendants that were dismissed by this Court. (*Id.*, p. 5). The only claim remaining against BMC’s co-defendants is plaintiff’s claim under the Medical Professional Liability Act (“MPLA”) W. Va. Code § 55-7B-1 *et seq.*

Plaintiff recognizes, in retrospect, that the failure to delete those portions of the Complaint apparently misled the co-defendants, who mistakenly concluded that plaintiff was trying to reopen the claims that this Court had already dismissed. ***To clarify the issue, plaintiff hereby stipulates that the Fourth Amended Complaint was not intended to affect the prior orders of this Court dismissing the ADA claims against the co-defendants.***

PLAINTIFF,
BY COUNSEL.

/s/ Allan N. Karlin
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CERTIFICATE OF SERVICE

I, Allan N. Karlin, do hereby certify that on April 7, 2021, I electronically filed, via the CM/ECF system, "Plaintiff's Reply to Defendants' Misty Hunsader, PA-C, Brandt Williamson, D.O., Smoky Mountain Emergency Services, Inc., and Health Care Alliance, Inc.'s Response to Plaintiff's Motion to File Fourth Amended Complaint" which will send notification to the following:

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